



THE CITY OF NEW YORK
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February 21, 2017

BY ECF

Honorable Thomas P. Griesa
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Hicham Azkour v. City of New York, et al., 13 Civ. 5878 (TPG)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above-referenced action on behalf of defendant City of New York (the “City”), Gaglione, Hughes, Cahill, Sansone, Posternak, and Torres (collectively, “City Defendants”).¹ City defendants respectfully submit this letter in lieu of a reply memorandum, and respectfully request that the Court deem City defendants’ motion to dismiss, pursuant to Rule 12(f) and 12(b)(6) of the Federal Rules of Civil Procedure, fully briefed and unopposed.

By way of background, on July 20, 2016, plaintiff filed the First Amended Complaint, (ECF No. 74), adding a slew of additional claims against newly added City defendants, which vastly exceeded the scope of the Court’s September 23, 2016 Order. (ECF No. 67, at p. 2) (“The court therefore . . . grants leave for plaintiff to amend his complaint as to his claims under 42 U.S.C. 1981 and the Fair Housing Act.”). Against the City defendants, plaintiff purports to bring claims of: (i) false arrest; (ii) illegal entry and search; (iii) failure to investigate; (iv) discrimination under 42 U.S.C. § 2000d, 42 U.S.C. § 1981, and the Fourteenth Amendment Equal Protection Clause; (v) disability discrimination under Title II of the Americans with Disabilities Act (“ADA”); (vi) First Amendment retaliation; (vii) violations to substantive and

¹ Assistant Corporation Counsel Bridgette Nunez is handling this case under my supervision pending her admission to the New York State Bar. Ms. Nunez can be contacted at (212) 356-1643 or bnunez@law.nyc.gov.

procedural due process; (viii) intentional and negligent infliction of emotional distress; and (ix) municipal liability. (ECF No. 74).

In accordance with City defendants' notice of motion, City defendants served a motion to dismiss the First Amended Complaint on plaintiff on February 3, 2017. Plaintiff was required to serve any opposition to City defendants' motion to dismiss by February 17, 2017. City defendants were then required to serve and file any reply to plaintiff's opposition by February 24, 2017. To date, plaintiff has failed to file his opposition.

Based on the foregoing, City defendants respectfully request that the Court deem City defendants' motion to dismiss, pursuant to Rule 12(f) and 12(b)(6) of the Federal Rules of Civil Procedure, fully briefed. City defendants further respectfully request that their motion be granted, in its entirety, as unopposed.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Omar J. Siddiqi
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